

2003 DRAFTING REQUEST

Bill

Received: **04/08/2003**

Received By: **tfast**

Wanted: **Soon**

Identical to LRB:

For: **Dean Kaufert (608) 266-5719**

By/Representing: **Cale Battles (aide)**

This file may be shown to any legislator: **NO**

Drafter: **tfast**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies: **ARG, PJH - 1**

Submit via email: **YES**

Requester's email: **Rep.Kaufert@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Wheelchair securement devices

Instructions:

See Attached [New LRB number]

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tfast 04/09/2003	csicilia 04/09/2003		_____			S&L
/P1			pgreensl 04/09/2003	_____	lrb_docadmin 04/09/2003		S&L
/1	tfast	csicilia	pgreensl	_____	lemery	lnorthro	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	09/23/2003	09/23/2003	09/23/2003	_____	09/23/2003	10/02/2003	
				_____		10/02/2003	
				_____		10/02/2003	

FE Sent For:

At
Intro.

<END>

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/P1			pgreensl 04/09/2003		lrb_docadmin 04/09/2003		S&L
/1	tfast	csicilia	pgreensl		lemery		

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	09/23/2003	09/23/2003	09/23/2003	_____	09/23/2003		

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<END>

04/09/2003 04:40:04 PM

Page 1

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/?	tfast 04/09/2003	csicilia 04/09/2003					S&L
/P1		1 cs 9/23 63	pgreensl 04/09/2003	9/23 P81UE	lrb_docadmin 04/09/2003		

9/23
P8

FE Sent For:

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/?	tfast	/PI js 4/9 03	4/9 PG	4/9 PG			
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FE Sent For:

<END>

Fast, Timothy

From: Fast, Timothy
Sent: Sunday, March 30, 2003 5:28 PM
To: Battles, Cale
Subject: RE: Wheelchair Law

Cale -- My target date for you to get a draft of the wheelchair transit legislation is a week from Wednesday (April 9). Will that work for you and Rep. Kaufert? If not, I'll do what I can to try to get it to you sooner. --Tim

-----Original Message-----

From: Battles, Cale
Sent: Wednesday, March 26, 2003 11:33 AM
To: Fast, Timothy
Subject: RE: Wheelchair Law

Tim,

I know you are busy, but I was wondering if you have an update on the wheelchair transit legislation we requested. We have a constituent in the district that is interested in our progress.

Thanks,

Cale Battles
Rep. Kaufert's Office
6-5719

-----Original Message-----

From: Fast, Timothy
Sent: Sunday, February 23, 2003 12:15 PM
To: Battles, Cale
Subject: RE: Wheelchair Law

Cale -- Thanks for the nudge. I've been meaning to call or e-mail you for several days but we have been somewhat swamped of late getting the biennial budget bill done. As well as getting unearthed from all the paper that's piled up in the interim.

I have looked into your question and I cannot find any legal requirement that a wheelchair's wheels be locked during loading or unloading. In fact, I found quite the opposite in my preliminary research, i.e., no absolute federal requirement that a wheelchair's wheels be locked even during transit, i.e., it appears to be optional. However, in Wisconsin, DOT rules require "wheelchair fasteners" (locking unit or webbing belt system that accomplishes the equivalent) and it's clear from that administrative code provision that it applies only during transit. See Trans. Adm. Code 300.77. Although my review was not exhaustive, I could find no jurisdiction where this requirement during transit wasn't imposed. And that makes sense; the liability concerns alone make it pretty much a foregone conclusion.

I hope this information helps. Would you like me to enter a request for Rep. Kaufert regarding this issue? We can get into the particularities later, such as effective date, fiscal impact, etc. --Tim

-----Original Message-----

From: Battles, Cale
Sent: Friday, February 21, 2003 3:57 PM
To: Fast, Timothy
Subject: Wheelchair Law

Tim,

I contacted you a couple of weeks ago regarding a drafting request that would require all transportation vehicles that have wheelchair lifts to lock the wheelchair's wheels when they

are loading/unloading wheelchairs. You were going to check to see if there were any current laws in place regarding this request. Have you had a chance to look into this further? Your assistance is appreciated.

Sincerely,

Cale Battles
Rep. Kaufert's Office
266-5719

2003

Date (time)
needed

Thurs. 4/10 Am

LRB - 2493 / PI

BILL

TNF : cjs : _____

Use the appropriate components and routines developed for bills.

AN ACT ... [generate catalog] *to repeal ... ; to renumber ... ; to consolidate and renumber ... ; to renumber and amend ... ; to consolidate, renumber and amend ... ; to amend ... ; to repeal and recreate ... ; and to create ...* of the statutes; **relating to:** *requiring the use of wheelchair securement devices in motor vehicles being used in urban mass transit systems; granting rule-making authority; and providing a*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of *penalty* standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

(Attached)

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

CR; 347.482

⑧

⑨ 347.482 Wheelchair securement devices. (1) In this section:

⑨ (a) "Wheelchair" means any specially constructed wheeled device that is intended to be used for the movement of a physically disabled person.

⑨ (b) "Wheelchair lift" means a lift that travels in a vertical or inclined direction and that is designed to be used for the loading or unloading of a person in a wheelchair.

⑨ (c) "Wheelchair securement device" means a strap, webbing, or other device that is designed to be used to secure a wheelchair to a vehicle body or wheelchair lift, including all necessary bases and other fasteners.

⑧

⑨ (2) No person may operate a motor vehicle operated in an urban mass transit system, as defined

✓ ✓
in s. 85.20 (1)(e) and (L), that is transporting
a person in a wheelchair, or that is loading or
unloading such person in a wheelchair lift, unless
the wheelchair is secured to the vehicle body or
wheelchair lift with a wheelchair securement device
with sufficient strength to do all of the following:

- ⑨ (a) Retain the wheelchair in the event the vehicle overturns.
- ⑨ (c) Prevent the wheels of the wheelchair from leaving the vehicle body or wheelchair lift in the event of a sudden stop or start.
- ⑪ (b) Prevent the wheelchair from moving.
- ④ (3) The department shall promulgate rules regarding standards and specifications for the installation, use, and operation of wheelchair securement devices required under this section. ✓

347.50 (4m)

Section #. ~~346.492(A)~~ of the statutes is created to read:

(A) 347.50 (4m)

347.482

~~346.492(A)~~ Any person violating s. ~~346.492~~ may be required to forfeit not less than \$50 nor more than \$200.

History: 1971 c. 278; 1973 c. 182; 1981 c. 168; 1983 a. 27, 175; 1985 a. 186; 1993 a. 198; 1995 a. 424; 1997 a. 135, 237, 277; 2001 a. 90.

2003

Nonstat File Sequence: **FFF**

LRB 2493 1P1

INF: _____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # 1444 • Effective date.

(#1) 1444 This act takes effect
on the first day of the 7th month beginning after publication.
(END)
D-NOTE

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ • Effective dates;

..... This act takes effect on the day after publication, except as follows:

(#1) () The treatment of
sections
of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute:.. **create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the **9400** department code.

SECTION 94 _____ • Effective dates;

(#1) () The treatment of
sections
of the statutes takes effect on

Analysis

This bill prohibits an operator of a motor vehicle being used in an urban mass transit system from transporting a person in a wheelchairs or loading or unloading such person onto the vehicle in a wheelchair lift, unless the wheelchair is secured to the vehicle body or wheelchair lift by use of a wheelchair securement device of sufficient strength to prevent the wheelchair from moving or overturning. Any person who violates this prohibition may be required to forfeit not less than \$50 nor more than \$200. ✓

FE - S/L

LRB-2493/Pldn

TNF: cjs

DRAFTER'S NOTE

ATTN: Cale Battles

④ Please review this draft carefully. In particular, please note the following:

④ 1. The requirement of the use of wheelchair securement devices only applies to motor vehicles being used in urban mass transit systems. Although DOT rules currently require the use of "wheelchair fasteners" to secure wheelchairs to human services vehicles and school buses (but not ^{apparently} to wheelchair lifts), this draft does not apply to either of them. For DOT rules, see ss. Trans. 300.77 and 301.65, Wis. Adm. Code. Do you want the draft to cover either or both of them? ✓

✓
⑨ 2. Proposed s. 347.482(2)(a) to (c) is based on similar provisions in DOT rules. See, for example, s. ^{Trans.} 300.77(1)(a) to (c), Wis. Adm. Code. ✓

⑨ 3. In lieu of the general penalty provision that would otherwise apply to violations (a forfeiture of not less than \$10 nor more than \$200 that a court may or ^{may not impose}), this draft creates a penalty of a forfeiture of not less than \$50 nor more than ^{that a court may or may not impose} \$200. See proposed s. 347.50(4m). ✓
This is the same penalty that applies to the operator of a human services vehicle who violates a provision regarding the loading or unloading of children with disabilities. See ss. 346.475 and 346.49(4), stats. Please let me know if you want any changes to this proposed ^{penalty} provision. ✓
⑨ 4. The draft requires all ^{such} motor vehicles used to transport persons in wheelchairs to be equipped with

wheelchair securement devices. This could require retrofitting of existing vehicles, at least with respect to wheelchair lifts. Do you want this requirement to apply only to new vehicles or wheelchair lifts that are purchased (or manufactured) after the effective date of the draft? The draft has a delayed effective ^{date} of the first day of the 7th month beginning after publication. Is this delayed effective date okay? ✓

TNF

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2493/P1dn
TNF:cjs:pg

April 9, 2003

ATTN: Cale Battles

Please review this draft carefully. In particular, please note the following:

1. The requirement of the use of wheelchair securement devices only applies to motor vehicles being used in urban mass transit systems. Although DOT rules currently require the use of "wheelchair fasteners" to secure wheelchairs to human services vehicles and school buses (but not apparently to wheelchair lifts), this draft does not apply to either of them. For DOT rules, see ss. Trans. 300.77 and 301.65, Wis. Adm. Code. Do you want the draft to cover either or both of them?
2. Proposed s. 347.482 (2) (a) to (c) is based on similar provisions in DOT rules. See, for example, s. Trans. 300.77 (1) (a) to (c), Wis. Adm. Code.
3. In lieu of the general penalty provision that would otherwise apply to violations (a forfeiture of not less than \$10 nor more than \$200 that a court may or may not impose), this draft creates a penalty that a court may or may not impose of a forfeiture of not less than \$50 nor more than \$200. See proposed s. 347.50 (4m). This is the same penalty that applies to the operator of a human services vehicle who violates a provision regarding the loading or unloading of children with disabilities. See ss. 346.475 and 346.49 (4), stats. Please let me know if you want any changes to this proposed penalty provision.
4. The draft requires all such motor vehicles used to transport persons in wheelchairs to be equipped with wheelchair securement devices. This could require retrofitting of existing vehicles, at least with respect to wheelchair lifts. Do you want this requirement to apply only to new vehicles or wheelchair lifts that are purchased (or manufactured) after the effective date of the draft? The draft has a delayed effective date of the first day of the 7th month beginning after publication. Is this delayed effective date okay?

Timothy N. Fast
Senior Legislative Attorney
Phone: (608) 266-9739
E-mail: tim.fast@legis.state.wi.us

Fast, Timothy

From: Fast, Timothy
Sent: Wednesday, September 17, 2003 6:17 PM
To: Battles, Cale
Subject: RE: Wheelchair Law

Cale -- Just a short reply to let you know I received your voice mail and e-mail. I will be out of the office tomorrow (Thursday) but will redraft the bill on Friday. If I have any questions, I'll give you a call on Friday, OK?

--Tim

-----Original Message-----

From: Battles, Cale
Sent: Wednesday, September 17, 2003 11:06 AM
To: Fast, Timothy
Subject: RE: Wheelchair Law

Tim,

I have finally gotten everyone to review this legislation and some minor changes need to be made to LRB-2493. Most of the concerns we received were in regards to definition of a "Wheelchair securement device". It appears that we need that section to indicate that a wheelchair needs to have the wheels locked when on the lift. Otherwise the penalties and everything else in the bill are great. If you have any other questions please feel free to contact me at 6-5719. Thank you again for all your assistance with this legislation.

Sincerely,

Cale Battles
Rep. Kaufert's Office
266-5719

2003 - 2004 LEGISLATURE

LRB-2493/22

TNF:cjs:pg

1 (Redraft
maker
has been
run)

Stays

WANTED
WED. 9/24~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

Reg cat.

and its wheels locked

- 1 AN ACT to create 347.482 and 347.50 (4m) of the statutes; relating to: requiring
 2 the use of wheelchair securement devices in motor vehicles being used in urban
 3 mass transit systems, granting rule-making authority, and providing a
 4 penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits an operator of a motor vehicle being used in an urban mass transit system from transporting a person in a wheelchair, or loading or unloading such person onto the vehicle in a wheelchair lift, unless the wheelchair is secured to the vehicle body or wheelchair lift by use of a wheelchair securement device of sufficient strength to prevent the wheelchair from moving or overturning. Any person who violates this prohibition may be required to forfeit not less than \$50 nor more than \$200.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 5 SECTION 1. 347.482 of the statutes is created to read:
 6 347.482 Wheelchair securement devices. (1) In this section:

1 (a) "Wheelchair" means any specially constructed wheeled device that is
2 intended to be used for the movement of a physically disabled person.

3 (b) "Wheelchair lift" means a lift that travels in a vertical or inclined direction
4 and that is designed to be used for the loading or unloading of a person in a
5 wheelchair.

6 (c) "Wheelchair securement device" means a strap, webbing, or other device
7 that is designed to be used to secure a wheelchair to a vehicle body or wheelchair lift,
8 including all necessary bases and other fasteners. , and to lock its
wheels,

9 (2) No person may operate a motor vehicle operated in an urban mass transit
10 system, as defined in s. 85.20 (1) (e) and (L), that is transporting a person in a
11 wheelchair, or that is loading or unloading such person in a wheelchair lift, unless
12 the wheelchair is secured to the vehicle body or wheelchair lift with a wheelchair
13 securement device with sufficient strength to do all of the following: , and its
wheels locked,

14 (a) Retain the wheelchair in the event the vehicle overturns.

15 (b) Prevent the wheelchair from moving.

16 (c) Prevent the wheels of the wheelchair from leaving the vehicle body or
17 wheelchair lift in the event of a sudden stop or start.

18 (3) The department shall promulgate rules regarding standards and
19 specifications for the installation, use, and operation of wheelchair securement
20 devices required under this section.

21 **SECTION 2.** 347.50 (4m) of the statutes is created to read:

22 **347.50 (4m)** Any person violating s. 347.482 may be required to forfeit not less
23 than \$50 nor more than \$200.

24 **SECTION 3. Effective date.**

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)

D-Note

LRB-2493/Idn
TNF: gjs

DRAFTER'S NOTE

ATTN: Cale Battles

⑨ This version adds language to the definition of "wheelchair securement device" and the newly created prohibition regarding the wheels of a wheelchair being locked to the vehicle body or wheelchair securement device. See proposed s. 347.482 (1)(c) ✓ and (2)(intro.). ✓

TNF

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2493/1dn
TNF:cjs:pg

September 23, 2003

ATTN: Cale Battles

This version adds language to the definition of "wheelchair securement device" and the newly created prohibition regarding the wheels of a wheelchair being locked to the vehicle body or wheelchair securement device. See proposed s. 347.482 (1) (c) and (2) (intro.).

Timothy N. Fast
Senior Legislative Attorney
Phone: (608) 266-9739
E-mail: tim.fast@legis.state.wi.us

Northrop, Lori

From: Battles, Cale
Sent: Thursday, October 02, 2003 3:12 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2493/1 Topic: Wheelchair securement devices

It has been requested by <Battles, Cale> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-2493/1 Topic: Wheelchair securement devices